

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and having this day passed as now printed is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

Legislative Council,  
16th August, 1882.

Hon. Mr. Whitaker.

LAW PRACTITIONERS (No. 2).

ANALYSIS.

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| <p>Title.</p> <p style="text-align: center;">PRELIMINARY.</p> <p>1. Short Title.</p> <p>2. Repeals. Saving.</p> <p>3. References to repealed Acts to apply to this Act.</p> <p>4. Interpretation.</p> <p style="text-align: center;">PART I.</p> <p>QUALIFICATION, EXAMINATION AND ADMISSION, AND POWERS OF BARRISTERS AND SOLICITORS.</p> <p style="text-align: center;">TITLE I. BARRISTERS.</p> <p style="text-align: center;">(1.) Qualification.</p> <p>5. Registrar to keep rolls. Barristers to be enrolled.</p> <p>6. Qualifications as barristers.</p> <p style="text-align: center;">(2.) Examination and Admission.</p> <p>7. Candidates to be examined.</p> <p>8. Order for enrolment of qualified persons.</p> <p>9. Examiners to be appointed.</p> <p>10. Judges may make rules for examinations.</p> <p>11. Provisions to be contained in rules.</p> <p>12. Powers of barristers.</p> <p>13. Barristers may be removed from rolls.</p> <p>14. No person to act as a barrister unless a barrister under this Act. Penalty.</p> <p style="text-align: center;">TITLE II. SOLICITORS.</p> <p style="text-align: center;">(1.) Qualification.</p> <p>15. Registrars to keep rolls, and solicitors to be enrolled.</p> <p>16. Qualification of solicitors.</p> <p style="text-align: center;">(2.) Examination and Admission.</p> <p>17. Provisions for the examination of candidates for admission.</p> <p>18. If Court or Judge satisfied, oaths to be administered and person admitted.</p> <p>19. Oath on admission.</p> <p>20. Judges to appoint examiners.</p> <p>21. Judges may make rules touching examinations, &amp;c.</p> <p>22. Final examination in law.</p> <p style="text-align: center;">(3.) Disqualification from Practice, &amp;c.</p> <p>23. No solicitor to commence or defend actions or suits if a prisoner. Offenders to be guilty of contempt, and incapable of recovering fees, &amp;c.</p> | <p>24. Solicitor not to act as agent for persons not qualified, nor employ persons suspended from practice. Offender may be struck off rolls.</p> <p>25. Unqualified persons practising may be imprisoned.</p> <p>26. Penalty for practising after being convicted of forgery, perjury, &amp;c.</p> <p style="text-align: center;">(4.) Bills of Costs.</p> <p>27. Solicitor not to commence action for fees till one month after delivery of the bill.</p> <p>28. Reference of bills for taxation.</p> <p>29. Taxation after one month.</p> <p>30. Taxation after twelve months under special circumstances. <i>Ex parte</i> taxation.</p> <p>31. Payment of costs of taxation. Form of order for taxation. Taxing officer's certificate. Costs of special reference.</p> <p>32. Court may order solicitor to render his bill, and deliver up deeds, &amp;c.</p> <p>33. Evidence of delivery of bill.</p> <p>34. Judge may authorize action for charges, &amp;c., before expiration of month.</p> <p>35. Bills may be taxed on application of third parties. Special circumstances to be taken into consideration.</p> <p>36. Judge may direct taxation of bills chargeable on executors, trustees, &amp;c. Interest of parties to be considered. Judge may direct to whom money shall be paid.</p> <p>37. Copy of bill to be delivered to persons applying for reference for taxation.</p> <p>38. No re-taxation.</p> <p>39. Taxation of bill after payment.</p> <p>40. Application for taxation. Certificate to be final. Judgment may be entered.</p> <p>41. No person to act as a solicitor unless a solicitor under this Act.</p> <p style="text-align: center;">TITLE III. BARRISTERS AND SOLICITORS.</p> <p style="text-align: center;">(1.) Conveyancing.</p> <p>42. Barristers and solicitors only to act as conveyancers.</p> <p style="text-align: center;">(2.) Certificates.</p> <p>43. No barrister to act as such unless he have certificate.</p> <p>44. No solicitor to act as such unless he have certificate.</p> <p>45. Registrar, on application, shall issue certificate.</p> |
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| (3.) Fees.   |   |
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| 46. Fees payable on examination and admission.   | Supreme Court may discharge rule. May suspend from practice. Court of Appeal may order striking off the rolls.  |
| 47. Appropriation of fees to maintenance of law libraries.                                       | 54. Supreme Court may summarily suspend from practice on reasonable grounds. May reserve any questions thereon for Court of Appeal.                             |
| 48. Court or Judge may make rules for management of library.                                     | (5.) Division of two Branches of Profession.  |
| 49. Appropriation of fees received by District Societies. District law libraries.                | 55. Judges may make rules dividing the two branches of the profession.  |
| 50. Judges may pay fees to examiners out of fees received.                                       | 56. Every barrister and solicitor to elect which branch he will practise. Further examination required in certain cases. Provision in case of failing to elect. |
| 51. Examiners' fees to be first charge on fees received by Law Societies.                        | Schedules.  |
| 52. Proportion to be paid by each Society.   |   |
| (4.) Striking Barristers or Solicitors off the Rolls; Summary Jurisdiction of Court.             |   |
| 53. Applications for striking practitioners off the rolls to be by rule nisi. Procedure thereon. |   |

### A BILL INTITULED

**Title.** AN ACT to consolidate and amend the Law relating to Law Practitioners.

#### PRELIMINARY.

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| <b>Short Title.</b>                                      | 1. The Short Title of this Act is "The Law Practitioners Act, 1882."   | 5                    |
| <b>Repeals.</b>  | 2. The Acts and parts of Acts enumerated in the Second Schedule hereto annexed are hereby repealed.  |                      |
| <b>Saving.</b>   | But this repeal shall not affect—<br>(1.) The past operation of any Act hereby repealed, nor any-<br>thing duly done or suffered; nor<br>(2.) Any right, privilege, status, capacity, obligation, or liability<br>acquired, accrued, or incurred.  | 10                   |
| <b>References to repealed Acts to apply to this Act.</b> | 3. Where any unrepealed Act refers to the provisions of any Act hereby repealed, such unrepealed Act shall be deemed to refer to the<br>corresponding provisions of this Act.  | 15                   |
| <b>Interpretation.</b>                                   | 4. In this Act, if not inconsistent with the context,—<br>"Barrister" includes any advocate who is duly authorized to<br>exercise the like functions as barristers in England are<br>authorized to exercise :<br>"Candidate" means any person applying to be admitted a<br>barrister or a solicitor of the Court :<br>"Court" means the Supreme Court of the colony :<br>"Judge" means a Judge of the Supreme Court :<br>"Judicial district," "district," mean—<br>(1.) A judicial district of the Supreme Court; or,<br>(2.) When within any judicial district of the Supreme<br>Court there shall be constituted separate portions thereof<br>for the purposes of delivery of pleadings and other pro-<br>ceedings in the Supreme Court, then every such portion of<br>such judicial district of the Supreme Court :<br>"New Zealand Law Society" means the New Zealand Law<br>Society incorporated under this Act :<br>"District Law Society" means the Law Society of a judicial<br>district associated under this Act :<br>"Roll" means any book, parchment, or paper on which the<br>Registrar of the Supreme Court inscribes the names of<br>persons who are admitted as barristers or solicitors of the<br>Court : | 20<br>25<br>30<br>35 |

1861, No. 11, s. 2.  
1878, No. 36, s. 3.

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5 "The Registrar" means a Registrar of the Supreme Court :  
 "Solicitor" includes attorney at law and proctor in Great  
 Britain and Ireland, and writer to the signet and solicitor  
 before the Supreme Courts in Scotland, and includes  
 solicitor, attorney, and every person in any other part of  
 Her Majesty's dominions who is duly authorized to  
 exercise therein the like functions as a solicitor or attorney  
 is authorized to exercise in England.

PART I.

10 QUALIFICATION, EXAMINATION AND ADMISSION, AND POWERS OF  
 BARRISTERS AND SOLICITORS.

TITLE I. BARRISTERS.

(1.) *Qualification.*

15 5. Every Registrar shall keep in his office a roll on which shall be  
 inserted the name of every person who shall have been admitted as a  
 barrister of the Court. Registrar to keep  
rolls.  
1861, No. 11, s. 4.

The rolls of barristers in existence at the time this Act comes  
 into force shall continue to be in force, and shall be deemed to be the  
 rolls of barristers of the Court under this Act until a new roll or new  
 20 rolls has or have been drawn up, under any rules hereafter to be  
 made in pursuance of provisions hereinafter contained.

All barristers on the rolls as such at the time this Act comes into  
 force shall be enrolled on any new roll of barristers made under the  
 provisions of this Act, without payment of any fee. Barristers to be  
enrolled.  
Ib., s. 5.

25 6. Every male person of the age of twenty-one years and  
 upwards, coming within any of the several descriptions in this section,  
 shall, on complying with the other provisions of the Act, be entitled to  
 be admitted and enrolled as a barrister of the Court :— Qualifications as  
barristers.

30 (1.) Any person who has been admitted as a barrister in any  
 Superior or Supreme Court of any part of Her Majesty's  
 dominions, and who has passed an examination, as here-  
 inafter provided, in the knowledge of the law of New  
 Zealand, in as far as it differs from the law of England :

35 (2.) Any person who has been admitted a solicitor of the Court,  
 provided no rule or enactment shall be in force to the  
 effect that practitioners shall not practise both as barris-  
 ters and solicitors, and who has passed such additional  
 examination in general knowledge and law as hereinafter  
 mentioned, if he applies for admission after the expiration  
 of one year after this Act shall have come into force :

40 (3.) Any person who has been admitted as a graduate of any  
 university of any part of Her Majesty's dominions, and  
 has passed an examination in law as hereinafter provided :

45 (4.) Any person who has passed such examination in general  
 knowledge and law as hereinafter provided.

Provided that any person who has passed the examination either in general knowledge or law prescribed for solicitors by the enactments hereby repealed, or the regulations made in pursuance thereof, and has not been admitted, shall be deemed to have passed such examination under this Act, and shall, in respect of admission, be entitled to the like rights and privileges. 5

(2.) *Examination and Admission.*

Candidates to be examined.  
1861, No. 11, s. 6.

7. The Court, or a Judge thereof, before admitting any candidate, shall examine and inquire, or cause to be examined and inquired, by such ways and means as it or he shall think proper, touching— 10

- (1.) The admission of the candidate, if previously admitted as a barrister or advocate as aforesaid ;
- (2.) The character of the candidate ;
- (3.) And the fitness and capacity of the candidate to act as a barrister of the Court. 15

Order for enrolment of qualified persons.  
Ib.

8. The Court or Judge, if satisfied by examination and inquiry, or by certificate of examiners as hereinafter provided, that such candidate is duly qualified and competent to act as a barrister, shall make an order directing the name of the candidate to be placed upon the rolls of the Court as a barrister, and the same shall be so placed by the Registrar accordingly. 20

Examiners to be appointed.  
Ib., s. 7.

9. For the purpose of the examination and inquiry respecting the several matters hereinbefore specified, the Judges or any three of them may, from time to time, appoint such persons as they may think fit to be examiners for the purpose of examining candidates, and giving certificates that such candidates have satisfactorily passed an examination for the purposes hereinbefore mentioned. 25

Nothing herein contained shall preclude such Judges from appointing any of themselves to be an examiner or examiners for the purpose aforesaid. 30

Judges may make rules for examinations.  
1861, No. 11, s. 8.

10. Subject to the provisions of the *next* following section, the Judges shall from time to time make such general rules and regulations touching the qualification and examination of candidates, and touching the evidence of previous admission and of character, and touching any other matters whatever relating to the admission of barristers of the Court, as they may think fit. 35

Provisions to be contained in rules.  
Ib., s. 9.

11. Such rules and regulations shall contain provisions to the following effect, viz. :—

- (1.) That candidates who have been admitted as barristers in any Superior or Supreme Court of any part of Her Majesty's dominions shall be examined only as to their knowledge of the law of New Zealand so far as it differs from the law of England : 40
- (2.) That candidates who shall have taken a degree in arts, science, or law from some university or other body in any part of Her Majesty's dominions which has or hereafter may have power by law to grant such a degree shall be examined only in law : 45
- (3.) That all other candidates shall be examined in law and general knowledge : 50
- (4.) That solicitors on the roll who shall apply, at any time after the expiration of *one* year after this Act shall come into force, to be admitted as barristers, shall pass such

additional examination both in general knowledge and in law as may be prescribed by regulations to be made by the Judges in that behalf.

12. Barristers of the Court shall have all the powers, privileges, 5 duties, and responsibilities that barristers have in England. Powers of barristers. Ib., s. 10.

13. Any barrister shall be removable by the Court from the rolls of the Court for reasonable cause, whensoever and wheresoever the same may have arisen, in the manner hereinafter provided. Barristers may be removed from rolls. Ib., s. 11.

14. No person shall act as a barrister in any Court in New Zealand who is not at the time of his so acting a barrister on the roll. No person to act as a barrister unless a barrister under this Act. Penalty. Ib., s. 12.

15. Every person who shall so act, not being on such roll as aforesaid, shall be deemed to be guilty of a contempt of the Court in which he shall so act, and may be punished accordingly, and shall also be liable to forfeit and pay any sum not exceeding fifty pounds for every such offence.

## TITLE II. SOLICITORS.

### (1.) Qualification.

20 15. Every Registrar shall keep in his office a roll on which shall be inscribed the name of every person admitted as a solicitor of the Court. Registrars to keep rolls, and solicitors to be enrolled. Ib., s. 14.

The rolls existing at the time when this Act comes into force shall remain in force till a new one shall have been made, and all 25 solicitors on the rolls as such at the time when this Act comes into force shall be enrolled in any new roll made under this Act without payment of any fee. Ib., s. 16.

30 16. Every male person of the age of twenty-one years and upwards coming within any of the descriptions specified in the four subsections of this section shall, on complying with the other provisions of this Act, be entitled to be admitted and enrolled as a solicitor:—

(1.) Any person admitted a barrister of the Court, provided no rule or enactment shall be in force to the effect that practitioners shall not practise both as barristers and solicitors:

35 (2.) Any person who has been admitted as a solicitor in any Superior or Supreme Court of any part of Her Majesty's dominions, and who has passed an examination, as hereinafter provided, in the knowledge of law, including the law of New Zealand in as far as it differs from the law of England:

40 (3.) Any person who has taken a degree in arts or law or science from some university or other body in any part of Her Majesty's dominions which has or hereafter may have power by law to grant such degrees, and has passed an examination in law as herein mentioned:

45 (4.) Any person who has passed such examination in law and general knowledge as hereinafter mentioned.

50 Provided that any person who has passed the examination either in general knowledge or law prescribed for solicitors by the enactments hereby repealed, or the regulations made in pursuance thereof, and has not been admitted, shall be deemed to have passed such examination under this Act, and shall, in respect of admission, be entitled to the like rights and privileges.

(2.) *Examination and Admission.*

Provisions for the examination of candidates for admission.

1861, No. 11, s. 25.

17. The Court or a Judge thereof, before admitting any person to be a solicitor of the Court, shall examine and inquire, or cause to be examined and inquired, by such ways and means as he or it shall think proper touching,—

- (1.) The admission of the candidate if previously admitted as a solicitor in any Superior or Supreme Court of any part of Her Majesty's dominions, and the time when he ceased to act in such capacity: 5
- (2.) The character of the candidate: 10
- (3.) And the fitness and capacity of the candidate to act as a solicitor of the said Court.

If Court or Judge satisfied, oaths to be administered, and person admitted.  
Ib., s. 26.

18. If the Court or the said Judge thereof shall be satisfied by such examination and inquiry, or by a certificate of examiners such as hereinafter mentioned, that such person is duly qualified and competent to act as a solicitor of the Court, the Court or Judge shall administer or cause to be administered to such person the oaths herein prescribed, and, after such oaths shall have been taken, shall cause such person to be admitted and his name to be enrolled as a solicitor of such Court, which admission shall be in writing signed by the Judges or a Judge of the said Court. 15 20

Oath on admission.  
Ib., s. 27.

19. Every person, before he shall be admitted and enrolled as a solicitor, shall take the oath of allegiance, and the oath following:—

“I, A.B., do swear that I will truly and honestly demean myself in the practice of a solicitor according to the best of my knowledge and ability.” 25

Judges to appoint examiners.  
Ib., s. 28.

20. For the purpose of the examination and inquiry respecting the previous admission of any person, and of his fitness and competency to act as a solicitor, the Judges of the Court may, from time to time, appoint such persons as they may think fit (being either the same persons appointed under section *nine* or others) to be examiners, and to give the certificates that any person applying for admission as a solicitor has satisfactorily passed an examination for the purposes hereinbefore mentioned. 30

Judges may make rules touching examinations, &c.  
Ib., s. 29.

21. The Judges shall also have power from time to time to make such general rules and regulations touching such examination, and touching the evidence of previous admission, and of character, and touching any other matters relating to the admission and enrolment of solicitors, as they may think fit, which rules and regulations shall prescribe examinations in law and general knowledge. 35 40

Final examination in law.  
Ib., s. 30.

22. The final examination, if more than one be prescribed, to be passed in law shall, as nearly as may be having reference to the laws in force in New Zealand, be of the same character and description as that which for the time being shall be prescribed in England for solicitors of the Supreme Court of Judicature in England. 45

(3.) *Disqualification from Practice, &c.*

No solicitor to commence or defend actions or suits if a prisoner.  
Ib., s. 33.

23. No solicitor who shall be a prisoner in any prison shall, during his confinement in any prison, as a solicitor, in his own name or in the name of any solicitor, sue out any writ or process, or commence or prosecute or defend any action or suit in any Court. 50

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Any solicitor so commencing, prosecuting, or defending any action or suit as aforesaid, or any solicitor permitting or empowering any such solicitor as aforesaid to commence, prosecute, or defend any action or suit in his name, shall be deemed to be guilty of a contempt of the Court, and punishable accordingly, upon the application of any person complaining thereof.

Such solicitor so commencing, prosecuting, or defending any action or suit as aforesaid shall be incapable of maintaining any action or suit in any Court whatever for the recovery of any fee, reward, or disbursement for or in respect of any business, matter, or thing done by him while such prisoner as aforesaid in his own name or in the name of any other solicitor.

24. If any solicitor shall wilfully and knowingly act as agent in any action, suit, or matter in the Court for any person not duly qualified to act as a solicitor, or permit or suffer his name to be made use of in any action or suit upon the account or for the profit of any unqualified person, or send any process to such unqualified person, or do any other act whereby to enable such unqualified person to appear, act, or practise in any respect as a solicitor in any action, suit, or matter in the Court, knowing such person not to be duly qualified;

Or shall, without the sanction of the Court or of a Judge thereof, knowingly employ or permit to act as a clerk, writer, or otherwise, in or about his business of a solicitor, any person who, being or having been a barrister or a solicitor, shall be under suspension from practice, or shall have been struck off the rolls of barristers or solicitors;

Such solicitor so offending may be struck off the rolls and for ever after disabled from practising as a solicitor, or may be suspended from practice for any period.

25. In any such case as hereinbefore last mentioned, on complaint made in a summary way against such unqualified person, the Court, on proof upon oath to its satisfaction that such unqualified person has acted or practised as aforesaid, may commit such person to any prison, without bail, for any term not exceeding one year.

26. No person who has been convicted in any part of the British dominions of felony or perjury, or subornation of perjury, shall be enrolled or admitted to practice or shall practise as a barrister or solicitor in New Zealand; and, if any person who has or shall have been so convicted shall at any time hereafter practise as a barrister or solicitor of the Court of New Zealand, such person shall be liable to pay a penalty of five hundred pounds for every such offence.

But nothing herein contained shall, except as is herein specially provided, be deemed to alter or affect the existing powers of the Court, or any Judge thereof, to refuse to enrol or admit to practice as a barrister or solicitor any person whomsoever, or to affect the summary jurisdiction of the said Court or any Judge thereof over barristers and solicitors.

And nothing herein contained shall apply to any person who has obtained a free pardon for such felony or perjury, or subornation of perjury.

(4.) *Bills of Costs.*

27. No solicitor, or executor, administrator, or assignee of any solicitor, shall commence or maintain any action for the recovery

Offenders to be guilty of contempt,

And incapable of recovering fees, &c.

Solicitor not to act as agent for persons not qualified,  
1861, No. 11, s. 34.

Nor employ persons suspended from practice.

Offender may be struck off rolls.

Unqualified persons practising may be imprisoned.  
Ib., s. 34.

Penalty for practising after being convicted of forgery, perjury, &c.  
1866, No. 77, s. 3.

Solicitor not to commence action for

fees till one month  
after delivery of the  
bill.

1861, No. 11, s. 36.

of any fees, charges, or disbursements for any business done by such solicitor until the expiration of one month after such solicitor, or executor, administrator, or assignee of such solicitor, shall have delivered to the party to be charged therewith, or left for him at his place of business, dwellinghouse, or last known place of abode, or forwarded by post in a registered letter, a bill of such fees, charges, and disbursements, signed by such solicitor (or, in the case of a partnership, by any of the partners with the name of such partnership), or by the executors, administrators, or assignees of such solicitor, or enclosed in or accompanied by a letter signed in like manner referring to such bill: 5 10

Provided that nothing in this section contained shall be deemed to repeal, annul, or limit the operation of any enactment wherein special provision is made as to solicitors' bills of costs.

Reference of bills for  
taxation.

1861, No. 11, s. 37.

28. Upon the application of the party chargeable by such bill within such month, whether the business contained in such bill or any part thereof shall have been transacted in any Court or not, a Judge may refer, on such terms as he shall think fit, such bill and the demand of such solicitor, executor, administrator, or assignee thereupon, to be taxed and settled by the Registrar. 15

Taxation after one  
month.

Ib., s. 38.

29. In case no such application as aforesaid shall be made within a month as aforesaid, then such reference may be made either upon the application of the solicitor, or of the executor, administrator, or assignee of the solicitor, whose bill may have been so as aforesaid delivered or left, or upon the application of the party chargeable by such bill, with such directions and subject to such conditions as the Judge making such reference shall think proper. 20 25

And the Judge may restrain such solicitor, or the executor, administrator, or assignee of such solicitor, from commencing or prosecuting any action touching such demand, pending such reference, upon such terms as shall be thought proper. 30

Taxation after twelve  
months under special  
circumstances.

Ib., s. 39.

30. (1.) No such reference as aforesaid shall be directed upon an application made by the party chargeable with such bill after a verdict shall have been obtained or a writ of inquiry executed in any action for the recovery of the demand of such solicitor, or the executor, administrator, or assignee of such solicitor, or after the expiration of twelve months after such bill shall have been delivered or left as aforesaid, except under special circumstances, to be proved to the satisfaction of the Judge to whom the application for such reference shall be made. 35

*Ex parte* taxation.

(2.) Upon every such reference, if either the solicitor, or executor, administrator, or assignee of the solicitor, whose bill shall have been delivered or left, or the party chargeable with such bill, having due notice, shall refuse or neglect to attend such taxation, the officer to whom such reference shall be made may proceed to tax and settle such bill and demand *ex parte*. 40 45

Payment of costs of  
taxation.

Ib., s. 40.

31. (1.) In case any such reference as aforesaid shall be made upon the application of the party chargeable with such bill, or upon the application of such solicitor, or the executor, administrator, or assignee of such solicitor, and the party chargeable with such bill shall attend upon such taxation, the costs of such reference shall, except as herein-after provided for, be paid according to the event of such taxation: that is to say, if such bill when taxed be less by a sixth part than the 50



bill delivered or left, then such solicitor, or executor, administrator, or assignee of such solicitor, shall pay such costs; and, if such bill when taxed shall not be less by a sixth part than the bill delivered or left, then the party chargeable with such bill making such application or 5 so attending shall pay such costs.

(2.) Every order to be made for such reference as aforesaid shall direct the officer to whom such reference shall be made to tax the costs of such reference to be so paid as aforesaid, and to certify what, upon such reference, shall be found to be due to or from such solicitor, 10 or executor or assignee of such solicitor, in respect of such bill and demand, and of the costs of such reference if payable.

Form of order for taxation.

(3.) But such officer shall in all cases be at liberty to certify specially any circumstances relating to such bill or taxation; and the Judge may make thereupon any such order as he may think right 15 respecting the payment of the costs of such taxation.

Taxing officer's certificate.

(4.) Where such reference shall be made, when the same is not authorized to be made except under special circumstances as hereinbefore provided, then the said Judge may, if he think fit, give special directions relative to the costs of such reference.

Costs of special reference.

32. The Court or Judge, in the same cases in which they are respectively authorized to refer a bill which has been so as aforesaid delivered or left, may make such order for delivery by the solicitor, or the executor, administrator, or assignee of any solicitor, of such bill as aforesaid, and for the delivery-up of deeds, documents, or papers in his 25 possession, custody, or power, or otherwise touching the same, in the same manner as where any such business has been transacted in the Court.

Court may order solicitor to render his bill, and deliver up deeds, &c. 1861, No. 11, s. 41.

33. It shall not in any case be necessary in the first instance for any solicitor, or executor, administrator, or assignee of such solicitor, 30 in proving a compliance with this Act, to prove the contents of the bill he may have delivered or left; but it shall be sufficient to prove that a bill of fees, charges, or disbursements, subscribed in the manner aforesaid, or enclosed in or accompanied by such letter as aforesaid, was delivered or left in manner aforesaid; but nevertheless it shall 35 be competent for the other party to show that the bill so delivered or left was not such a bill as constituted a *bond fide* compliance with this Act.

Evidence of delivery of bill. *Ib.*, s. 42.

34. A Judge may authorize a solicitor to commence an action for the recovery of his fees, charges, or disbursements against the 40 party chargeable therewith, although one month shall not have expired from the delivery of a bill as aforesaid, on proof to the satisfaction of the said Judge that there is probable cause for believing that such party is about to quit the colony.

Judge may authorize action for charges, &c., before expiration of month. *Ib.*, s. 43.

35. When any person, not the party chargeable with any such 45 bill within the meaning of the provisions hereinbefore contained, shall be liable to pay or shall have paid such bill either to the solicitor, his executor, administrator, or assignee, or to the party chargeable with such bill as aforesaid, it shall be lawful for such person, his executor, administrator, or assignee, to make such appeal for a refer- 50 ence for the taxation and settlement of such bill as the party chargeable therewith might himself make, and the same reference and order shall be made thereupon, and the same course pursued in all respects,

Bills may be taxed on application of third parties. *Ib.*, s. 44.

as if such application was made by the party so chargeable with such bill as aforesaid :

Special circumstances to be taken into consideration.

Provided that, in case such application is made when under the provisions herein contained a reference is not authorized to be made except under special circumstances, the Court or Judge to whom such application shall be made may take into consideration any additional special circumstances applicable to the person making such application, although such circumstances might not be applicable to the party so chargeable with the said bill as aforesaid if he was the party making the application.

Judge may direct taxation of bills chargeable on executors, trustees, &c.  
1861, No. 11, s. 45.

**36.** (1.) In any case in which a trustee, executor, or administrator has become chargeable with any such bill as aforesaid, a Judge, if in his discretion he shall think fit, upon the application of a party interested in the property out of which such trustee, executor, or administrator may have paid or be entitled to pay such bill, may refer the same, and such solicitor's, or executor's, administrator's, or assignee's demand thereon, to be taxed and settled by the Registrar, with such directions and subject to such conditions as such Judge shall think fit; and may make such order as he may think fit for the payment of what may be found due, and of the costs of such reference, to or by such solicitor, or the executors, administrators, or assignees of such solicitor, by or to the party making such application, having regard to the provisions herein contained relative to applications for the like purpose by the party chargeable with such bill, so far as the same shall be applicable to such cases.

Interest of parties to be considered.

(2.) In exercising such discretion as aforesaid, the Judge may take into consideration the extent and nature of the interest of the party making the application.

Judge may direct to whom money shall be paid.

(3.) But where any money shall be so directed to be paid by such solicitor, or the executors, administrators, or assigns of such solicitor, a Judge, if he think fit, may order the same or any part thereof to be paid to such trustee, executor, or administrator so chargeable with such bill, instead of being paid to the party making such application; and, where the party making the application shall pay any money to such solicitor, or executor, administrator, or assignee of such solicitor, in respect of such bill, he shall have the same right to be paid by such trustee, executor, or administrator so chargeable with such bill as such solicitor, or executor, administrator, or assignee of such solicitor, had.

Copy of bill to be delivered to persons applying for reference for taxation.

Ib., s. 46.

**37.** For the purpose of any such reference, upon the application of the person not being the party chargeable within the meaning of the provisions aforesaid, or of a party interested as aforesaid, the Court or a Judge may order any such solicitor, or the executors, administrators, or assigns of any such solicitor, to deliver to the party making such application a copy of such bill, upon payment of the costs of such copy.

No re-taxation.

Ib., s. 47.

**38.** No bill which shall have been previously taxed and settled shall be again referred unless, under special circumstances, the Court or Judge to whom such application is made shall think fit to direct a re-taxation thereof.

Taxation of bill after payment.

Ib., s. 48.

**39.** The payment of any such bill as aforesaid shall in no case preclude the Court or Judge to whom application shall be made from

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referring such bill for taxation, if the special circumstances of the case shall, in the opinion of such Court or Judge, appear to require the same, upon such terms and conditions and subject to such directions as to such Court or Judge shall seem right: Provided the application  
5 for such reference be made within twelve months after payment.

10 **40.** All applications made under this Act to refer any such bill as aforesaid to be taxed and settled, and for the delivery of such bill, and for the delivering-up of deeds, documents, and papers, shall be made in the matter of such solicitor; and upon the taxation and settlement of any such bill the certificate of the officer by whom such bill shall be taxed shall (unless set aside or altered by order or rule of Court) be final and conclusive as to the amount thereof; and payment of the amount certified to be due and directed to be paid may be enforced according to the course of the Court; and such Court or any Judge thereof may  
15 order judgment to be entered up for such amount with costs, unless the retainer shall be disputed, or make such other order thereon as such Court or Judge shall deem proper.

20 **41.** No person shall act as a solicitor in any Court in New Zealand who is not at the time of his so acting a solicitor enrolled according to the provisions of this Act; and any person who shall offend against this provision shall be deemed to be guilty of a contempt of the Court in which he shall so act, and may be punished accordingly, and shall also be liable to a penalty not exceeding fifty pounds for every such offence.

Application for taxation.  
1861, No. 11, s. 49.

Certificate to be final.

Judgment may be entered.

No person to act as a solicitor unless a solicitor under this Act.

Ib., s. 50.

25 TITLE III. BARRISTERS AND SOLICITORS.

(1.) *Conveyancing.*

**42.** If any man, not being a barrister or solicitor of the Court, shall act as a conveyancer, he shall forfeit and pay for every such offence any sum not exceeding the sum of fifty pounds.

Barristers and solicitors only to act as conveyancers.

Ib., s. 52.

(2.) *Certificates.*

30 **43.** No barrister shall act as such unless he shall have obtained from the Court a certificate which shall then be in force to the effect that he is on the roll of the Court as a barrister thereof.

No barrister to act as such unless he have certificate.

Ib., s. 53.

35 Any barrister who shall offend against this provision shall be deemed guilty of a contempt of Court, and shall forfeit and pay a penalty not exceeding fifty pounds.

**44.** No solicitor shall act as such unless he shall have obtained from the Court a certificate which shall then be in force to the effect that he is on the roll of the Court as a solicitor thereof.

No solicitor to act as such unless he have certificate.

Ib., s. 54.

40 Any solicitor who shall offend against this provision shall be deemed guilty of a contempt of Court, and shall forfeit and pay a penalty not exceeding fifty pounds.

45 **45.** On application made to him for that purpose by any barrister or solicitor whose name shall be on the rolls of the Court as such respectively, any Registrar of the Court shall issue a certificate to him under the seal of the Court accordingly; and any such certificate shall be in force from the tenth day of January next after the issue thereof till the tenth day of January following, or, if the person applying for

Registrar on application shall issue certificate.

Ib., s. 55.

the same shall so require, until the tenth day of January only next ensuing the issue thereof.

## (3.) Fees.

Fees payable on examination and admission.  
1861, No. 11, s. 56.  
Appropriation of fees to maintenance of law libraries.  
1867, No. 19, s. 4.

Court or Judge may make rules for management of library.  
1861, No. 11, s. 58.  
1867, No. 19, s. 5.

Appropriation of fees received by District Societies.  
1878, No. 36, s. 14.  
1879, No. 33, s. 5.

District law libraries.  
1878, No. 36, s. 14.

Judges may pay fees to examiners out of fees received.  
1877, No. 49, s. 2.  
1879, No. 33, s. 2.

46. The several sums of money mentioned in the *First* Schedule to this Act shall be taken and received as fees for the matters therein specified. 5

47. All fees payable and received under "The Law Practitioners Act, 1861," and any Acts amending the same, and under this Act, in any judicial district, shall, until the establishment of a District Law Society as hereinafter provided, be applied, in such proportions and in such manner as the Judges, or any three or more of them, shall from time to time direct, in the purchase and maintenance of law libraries at such towns in New Zealand as such Judges, or any three or more of them, shall appoint, and all such libraries shall be for the use of the Court and the barristers and solicitors of such Court. 15

48. Subject to the provisions hereinafter mentioned, the Court, or, in default thereof, the Judge of the judicial district in which any such library has been or shall be established and maintained, may from time to time, until a District Law Society shall have been established within such district, make regulations for the management thereof, and impose penalties not exceeding five pounds for any breaches of the same. 20

49. (1.) Whenever and so soon as a District Law Society shall be established within any district under the provisions hereinafter contained, all fees payable and received under "The Law Practitioners Act, 1861," and any Acts amending the same, or this Act, within any such district, shall form one fund, and shall be managed by the Council of such District Law Society, and shall be applied by such Council, in such manner as such Council shall from time to time direct, in the purchase and maintenance of law libraries in such towns in New Zealand as such Council shall direct, and for the preparation and publication of reports of legal decisions given in the colony, and for all such other purposes of or incidental to the objects of any such Society as may be authorized by the by-laws or rules of any such Society. 25 30 35

(2.) Every such library shall be for the use of the Supreme Court and such other Courts as the Council of the District Law Society, if any, for the district within which such library shall be, or, if there shall be no local Law Society, then as the Judges shall direct, and of the barristers and solicitors of the Court; and all law libraries within a district shall be managed as by the Council of the District Law Society shall be directed. 40

50. Out of the fees received under "The Law Practitioners Act, 1861," and any Act amending the same, or this Act, the Judges or any three or more of them, may from time to time appropriate such reasonable sums as they may deem necessary for the purpose of paying fees to the examiners appointed by them to conduct or assist in the examination of candidates for admission as barristers or solicitors of the Court, and for purposes connected with such examination; and such fees may be appropriated out of the fees received under the said Acts and this Act in any judicial district in such 50

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proportion and manner as the said Judges shall think fit, notwithstanding the establishment of any District Law Societies.

Such appropriation shall be made only out of the fees paid by barristers or solicitors for examinations and admissions. 1879, No. 33, s. 2.

5 51. All moneys payable for the purposes of any such examination shall be defrayed by the Councils of the several District Law Societies upon the order of a Judge, and shall be a first charge on the fees liable to appropriation as hereinbefore mentioned. Examiners' fees to be first charge on fees received by Law Societies. Ib., s. 3.

10 52. The amount chargeable against and payable in every year by each District Law Society shall bear the same proportion to the total appropriation out of the said fees as the fees received by such Society bear to the aggregate of the like fees received throughout the colony. Proportion to be paid by each Society. Ib., s. 4.

15 (4.) *Striking Barristers or Solicitors off the Rolls; Summary Jurisdiction of Court.*

53. Applications to strike a barrister or solicitor off the rolls shall be made by motion in the Court for a rule *nisi*. Applications for striking practitioners off the rolls to be by rule *nisi*.

20 Whenever a rule *nisi* has been granted by the Court calling upon a barrister or solicitor on the rolls thereof to show cause why he should not be struck off the rolls,— Procedure thereon.

(1.) The Court may discharge such rule on cause being shown before it, if it shall think fit; or Supreme Court may discharge rule. 1862, No. 24, s. 35.

25 (2.) The Court may direct and order, if it shall think fit, on cause being shown against such rule, that the barrister or solicitor against whom it has been granted shall be suspended from acting as barrister or solicitor, and from enjoying all or any of the privileges of such barrister or solicitor, until the decision of the Court of Appeal upon such rule; or May suspend from practice. Ib.

30 (3.) If, upon cause being shown, the Court shall be of opinion that the rule ought to be made absolute, or that it is doubtful whether the rule ought to be discharged or made absolute, such Court shall reserve the case for the consideration of the Court of Appeal at its next sitting, and shall cause such rule, and all affidavits made in support of or against such rule, and all other proceedings referred to in such rule, to be forthwith transmitted to the Registrar of such Court of Appeal, and the Court of Appeal shall at its next sitting, whether the party or his counsel appear in support of or against such rule or not, decide thereupon, and order such rule to be made absolute or to be discharged, or may make such other order therein as it shall think fit. Court of Appeal may order striking off the rolls. Ib.

35 (4.) If, upon cause being shown, the Court shall be of opinion that the rule ought to be made absolute, or that it is doubtful whether the rule ought to be discharged or made absolute, such Court shall reserve the case for the consideration of the Court of Appeal at its next sitting, and shall cause such rule, and all affidavits made in support of or against such rule, and all other proceedings referred to in such rule, to be forthwith transmitted to the Registrar of such Court of Appeal, and the Court of Appeal shall at its next sitting, whether the party or his counsel appear in support of or against such rule or not, decide thereupon, and order such rule to be made absolute or to be discharged, or may make such other order therein as it shall think fit.

40 54. (1.) Nothing in this Act contained, except as in the last preceding section mentioned, shall affect the summary jurisdiction of the Court over barristers and solicitors; but such Court shall have full power to suspend from practice or attach any barrister or solicitor, or to make such order as it may think fit respecting the practice of such barrister or solicitor, upon reasonable cause shown. Supreme Court may summarily suspend from practice on reasonable grounds. 1861, No. 11, s. 35.

45 (2.) The Court may in its discretion reserve any question arising upon any application for the exercise of its summary jurisdiction upon a barrister or solicitor for the decision of the Court of Appeal. May reserve any questions thereon for Court of Appeal.

upon a case stated; and the Court of Appeal shall have full power and authority to decide thereon and make such order as it may think fit.

(5.) *Division of two Branches of Profession.*

Judges may make rules dividing the two branches of the profession.  
Ib., s. 59.

55. The Judges, whenever they may deem it expedient to do so, from time to time, may make rules directing that no barrister shall practise as a solicitor and no solicitor shall practise as a barrister; and any such rule may be made applicable to the whole or any part of the colony, and may be revoked by the said Judges. 5

Every such rule shall come into operation at the expiration of six months from the day the same shall have been gazetted; but no such gazetting shall be made until the said rules shall have lain on the table of both Houses of the General Assembly for thirty days during a session of the General Assembly. 10

Every barrister and solicitor to elect which branch he will practise.  
Ib., s. 60.

56. During such six months, every person who shall have been admitted and enrolled both as a barrister and solicitor shall by writing under his hand, to be filed with the Registrar for the district in which he usually practises, signify his election to practise only either as a barrister or as a solicitor, as he shall think fit; and from and after the expiration of such six months such person shall be entitled to practise that branch of the profession only which he shall have selected, and shall be struck off the roll of the other branch accordingly. 15 20

Further examination required in certain cases.  
Ib.

Provided that, if any such person shall have passed only the examination to be prescribed under the authority of this Act for the admission of solicitors, he shall not be allowed to practise as a barrister until he shall have passed the examination to be prescribed under the authority hereof for the admission of barristers. 25

Provision in case of failing to elect.  
Ib.

Provided also that, if any person shall fail to make his election within the said six months, a Judge as soon as conveniently may be after the expiration thereof, shall, subject to the proviso last hereinbefore contained, order the name of such person to be struck either off the roll of barristers or solicitors as he shall think fit. 30

Schedules.

SCHEDULES.

Sec. 60.

FIRST SCHEDULE.

TABLE OF FEES TO BE PAID.

|               |   | <i>Barristers.</i>                           |    |    |    |    |    |    |
|---------------|---|--|----|----|----|----|----|----|
|               |   | Under Subsections (1) and (2) of Section 6:— |    |    |    | £  | s. | d. |
| 1861, No. 11. | For every examination   | ..   | .. | .. | .. | 2  | 2  | 0  |
|               | For every admission   | ..   | .. | .. | .. | 5  | 5  | 0  |
|               |   | Under Subsections (3) and (4) of Section 6:— |    |    |    |    |    |    |
|               | For every examination   | ..   | .. | .. | .. | 5  | 5  | 0  |
|               | For every admission   | ..   | .. | .. | .. | 21 | 0  | 0  |
|               |   | Under Section 43:—                           |    |    |    |    |    |    |
|               | For every annual certificate, if holding a certificate under section 44 | ..   | .. | .. | .. | 1  | 1  | 0  |
|               | If not holding a certificate under section 44                           | ..   | .. | .. | .. | 3  | 3  | 0  |

| <i>Solicitors.</i>  |    |    |    |    |         |
|---|----|----|----|----|---------|
| <b>Under Subsections (1) and (2) of Section 16:—</b>                    |    |    |    |    |         |
| For every examination   | .. | .. | .. | .. | £ s. d. |
| For every admission   | .. | .. | .. | .. | 2 2 0   |
| <b>Under Subsections (3) and (4) of Section 16:—</b>                    |    |    |    |    |         |
| For every examination   | .. | .. | .. | .. | 2 2 0   |
| For every admission   | .. | .. | .. | .. | 21 0 0  |
| <b>Under Section 44:—</b>   |    |    |    |    |         |
| For every annual certificate, if holding a certificate under section 43 | .. | .. | .. | .. | 1 1 0   |
| If not holding a certificate under section 43                           | .. | .. | .. | .. | 3 3 0   |

SECOND SCHEDULE.

ACTS REPEALED.

Sec. 2.

- 1861, No. 11.—The Law Practitioners Act, 1861.
- 1862, No. 8.—The Law Practitioners Act Amendment Act, 1862.
- 1865, No. 35.—The Law Practitioners Act Amendment Act, 1865.
- 1866, No. 77.—The Law Practitioners Act Amendment Act, 1866.
- 1867, No. 19.—The Law Practitioners Act Amendment Act, 1867.
- 1871, No. 45.—The Law Practitioners Act Amendment Act, 1871. *In part, namely, sections two, three, and four.*
- 1877, No. 49.—The Law Practitioners Act Amendment Act, 1877.

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